

honor will be the service in the Senate representing, in my case, Massachusetts, the State I love, which has played such an extraordinary role in this Nation, from the Revolution of this country, to its members being involved in the Constitutional Convention, to the strong support by the abolitionists in ending slavery, the support for the suffragettes—by great leadership by Republicans and Democrats. The people of Massachusetts have a high standard for progress to be made by their Representatives, and it is one that challenges all of us each day.

Let me just say, finally, I don't think people are asking very much in our country. They want schools that teach. They want a health care system, so they can pay into a system but also have a quality health system that is going to cover themselves and their family. They want respect for their senior citizens. They want good jobs, so they can have a future for themselves and for their families and for their children. They want to knock down the walls of discrimination. Americans are fair, and they understand that this country has to free itself from discrimination in every form and shape we face. They want decent housing, and, as a part of the American dream, they want to be able to breathe the air and drink the water that is clean. They want safe and secure neighborhoods, strong defense, and they want us to represent overseas the best of American values.

I came to this body believing that the privileged and the powerful can look out for themselves but that our challenge is to make sure we are going to have as even a playing field as we possibly can for all Americans. I think it is something that should get us up early in the morning and have us willing to work long and hard, as long as we are privileged to serve here, to be able to achieve. That is really what America is all about: Freeing us from the forms of discrimination, creating an even playing field so that our fellow citizens can be what they truly can be and want to be.

I was reminded just the other day of the cartoon "Peanuts" by Charles Schultze. It gave me some hope because, as Peanuts has said:

After you go over the top of the hill, you go faster on the other side.

So I am looking forward, with even greater spirit and greater determination, to the battles that lie ahead in this Senate Chamber, representing my State. I thank all of those who have been a part of today.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I thank my colleague for his long service in the Senate.

May I inquire, are we prepared to go back on the bill?

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001—Continued

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2934

Mr. HATCH. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendment is set aside. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. ENSIGN, and Mr. BURNS, proposes an amendment number 2934.

Mr. HATCH. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To apply the election technology and administration requirements to States only after funding is made available to meet such requirements)

On page 22, after line 25, insert the following:

**SEC. 105. COMPLIANCE WITH ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS CONDITIONED ON FUNDING.**

Notwithstanding any other provision of this title, no State or locality shall be required to meet a requirement of this title prior to the date on which funds are appropriated at the full authorized level contained in section 209.

Mr. HATCH. Madam President, I rise today to offer an amendment to S. 565, the Equal Protection and Voting Rights Act of 2001.

First of all, I thank my friends Senator ENSIGN and Senator BURNS for co-sponsoring this important amendment. Let me also commend my colleagues, Chairman DODD and Senator MCCONNELL, for undertaking an extremely arduous process leading to consideration today of legislation that is supported by half the Senate. I know this was not easy for the committee, nor their staffs, and I appreciate the hard work that led to this compromise.

That being said, I do have a concern about the impact that enactment of this legislation could have on states and localities, most of whom are experiencing extreme budget shortfalls. Let me explain.

Title I of the Dodd-McConnell bill includes seven new uniform and non-discriminatory requirements for election technology and administration. These are requirements, for example, pertaining to certification of votes cast, audit capacity, and accessibility for individuals with disabilities. If enacted, these requirements would apply to each voting system used in an election for Federal office. Obviously, this language has far-reaching consequences.

I appreciate the intent underlying the sponsors' legislation, which is that the system must be uniform in nature, across the entire country, if it is to be successful in accomplishing the goal of election reform.

I also appreciate the committee's stated desire that the program be fully funded. That being said, the question I ask my colleagues is this: "What if it isn't?" What if a future Congress fails to provide adequate funding for this legislation?

That goes to the heart of my amendment.

My amendment is simple. It states that only fully-funded mandates will be enforceable. In other words, if Congress does not provide the funding, the States and localities won't be left holding the bag for a Federal mandate.

Let me hasten to make clear that my amendment does not seek to change the mandates in this title. What it does is ensure State and local governments that we will keep our commitment in the Unfunded Mandates Reform Act of 1995. At that time, we promised the States that we would not saddle them with new mandates without providing them with the resources to implement and enforce those laws.

While I believe my good friends Senator CHRIS DODD and MITCH MCCONNELL are well intentioned in their approach to election reform, as now drafted, this bill fails to protect states and localities from unfunded mandates. Adoption of my amendment would guarantee we keep this promise to our States and localities. I also believe that this amendment seeks to codify the author's intent of meeting our promises to the states.

Some may argue that the Dodd-McConnell bill will fund every title in the bill. However, this argument does not hold water when weighed against the text of the bill. This bill authorizes payments to the states. Note the key word—authorizes. It does not appropriate the resources to get the job done. Given the numerous competing Federal priorities, not to mention the funding required in our fight against terrorism, there is good reason to question whether those resources will be available.

I have great faith in the future of this country and in our future leaders. I do not have faith, however, that future congresses will allocate required resources for every State to purchase new equipment and to retrofit existing structures where citizens vote. S. 565 sets three hard deadlines, and the States will be held accountable for the mandated changes at each of those deadlines. Although the changes will be phased in over 4 years, all States will be responsible for implementing all provisions by 2006.

The Congressional Budget Office has estimated the cost of the Dodd-McConnell bill at \$3 billion. That is billion, with a "B." I know that my friends Senators DODD and MCCONNELL fully expect this bill to be funded. I truly hope that is the case.

But let us look at the hard realities. It is ethnical for us, at a time when the majority of our states are facing serious financial difficulties, when some, such as my home State of Utah are cutting off health care benefits to children and closing prisons, to even suggest they foot the entire bill for these new mandates? I think not.

Our amendment simply declares that States will not be held accountable for any mandated provisions in S. 565 until sufficient funds have been appropriated. I think it would be prudent, even if we are able to fully fund these mandates, to have this provision in the bill as a safety net.

Let me also note that this amendment has the support of state and local governments.

Madam President, I ask unanimous consent that letters from various State and local officials be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF SECRETARIES OF STATE, NATIONAL CONFERENCE OF STATE LEGISLATURES, AND THE NATIONAL ASSOCIATION OF COUNTIES

February 13, 2002.

DEAR SENATOR HATCH: The national organizations listed above, representing state and local elected officials, express our support for your proposed amendment to ensure that full federal funding accompanies federal election reform legislation.

We have reviewed the text of your proposed amendment and endorse it as a mechanism to guarantee that federal mandates be accompanied by full funding. We look forward to working with you to ensure that states and local governments are equipped to provide fair and open elections and to maintain and improve the process by which we conduct elections for local, state and federal office.

Sincerely,

RON THORNBURGH,  
*Kansas Secretary of  
State, President, Na-  
tional Association of  
Secretaries of State.*

LARRY NAAKE,  
*Executive Director,  
National Association  
of Counties.*

WILLIAM POUND,  
*Executive Director,  
National Conference  
of State Legisla-  
tures.*

STATE OF UTAH,  
OFFICE OF THE GOVERNOR,

*Salt Lake City, UT, February 25, 2002.*

Hon. ORRIN G. HATCH,  
*Russell Building,  
Washington, DC.*

DEAR SENATOR HATCH: I am writing to express my support for your proposed amendment to ensure that full federal funding accompanies federal election reform legisla-

tion. As you are aware, many states, including Utah, are experiencing budget shortfalls. It would be extremely difficult, if not impossible, to make budget allocations to purchase new voting equipment at this time. Unfunded federal mandates would also place a financial burden on our 29 counties. We are dedicated to providing the best equipment so

that every individual has an equal opportunity to vote, but we cannot accomplish this without federal funding.

As the Chief Election Official for the State of Utah, I endorse your proposed amendment. I feel that the only way states and localities can accomplish the many aspects of election reform is to provide full funding for all federal mandates. I look forward to working with you to ensure that all elections are fair, open and efficient.

Sincerely,

OLENE S. WALKER,  
*Lieutenant Governor.*

Mr. HATCH. I urge my colleagues to remember your commitment to your State—no more unfunded mandates. I urge an affirmative vote on this important amendment.

Mr. DODD. Madam President, as I understand my colleague—I appreciate his points about what we have tried to do in this legislation, obviously. There are some minimum requirements in the area of access, to make it possible for millions of disabled Americans who have never been able to cast a vote in private, independently, to be able to do so; the anti-fraud provisions of statewide voter registration; and provisional voting. Those are the three minimum requirements here—and fully fund it.

I agree with my colleague from Utah. I happen to believe when there are mandates such as this, minimum requirements, no matter how minimum they may be, we ought to have the resources to make it possible for our States to do those things.

I have committed to my friend and colleague from Utah that we are going to do everything possible to see to it that is the case. So, in terms of the language of this amendment, I inquire of my friend from Utah whether or not the understanding is we are going to see to it—the President has already put \$1.2 billion in his budget as a kind of indication of the administration's good faith on this issue.

I found that to be a remarkable commitment in light of the fact the bill has not been adopted yet. Obviously, we don't have the power to appropriate as an authorizing committee. But because my friend from Kentucky, the Senator from Missouri, and the Senator from Illinois—all of whom are principal sponsors of this bill—sit on the Appropriations Committee, along with conversations with others, we feel very confident that the resources are going to be there on a bipartisan basis.

AMENDMENT NO. 2934, AS MODIFIED

Mr. HATCH. Madam President, from our previous conversation, I understand that the Senator requests that I withdraw this amendment.

Let me just say that I am reluctant to withdraw this amendment. I am very concerned that without a concrete assurance in the bill, our states will be saddled with requirements that are clearly out of their financial reach. I hear what my friend, Senator DODD, is saying and I would like to believe that there will be adequate funding for all of the provisions in S. 565. On the other

hand I have received countless entreaties from local governments who are, simply put, skeptical that the federal government will provide them with adequate funding. Without that funding, obviously, an unfunded mandates. That is what I would like to avoid.

That being said, Senator DODD does raise a good point when he reminds us that many of the cosponsors of the Election Reform Act serve on the Appropriations Committee. On the other side, one of the great fears of those who I represent with this amendment is that future congresses will not share the same commitment. It is my hope and I'm sure the hope of all of the cosponsors of this amendment that the appropriators will endeavor to fund fully all of the provisions within the bill. I accept the assurances of my colleague address this concern more fully in conference. To that end, I'm willing to work with my colleague on this issue and modify my amendment. I am sending the modification to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2934), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE ON COMPLIANCE WITH ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS.

It is the sense of the Senate that full funding be provided to each State and locality to meet the requirements relating to compliance with election technology and administration pursuant to this Act.

Mr. HATCH. Madam President, this modification expresses the sense of the whole Senate to do what both Senator DODD and I are so concerned about. It shows that all 100 Senators agree with Senators ENSIGN, BURNS, THOMAS and me that full funding of this act must be guaranteed to states and localities. While this is not the version of the amendment that I would have preferred, I believe that it will assure the supporters of the original amendment that there will be appropriate funding. I urge adoption of the amendment, as modified.

Mr. DODD. Madam President, I agree. I thank my friend from Utah, the Senator from Nevada, and the Senator from Montana. Everyone feels very strongly about this in the difficult times for all of our jurisdictions. That is why we have not made this a percentage mandate but a 100-percent Federal budget, and becoming a far better partner with our States and localities in the conduct of elections.

I enthusiastically support this modification.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment, as modified, is agreed to.

The amendment (No. 2934), as modified, was agreed to.

Mr. DODD. Madam President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2935

Mr. HATCH. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2935.

Mr. HATCH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment, No. 2935, is printed in the RECORD under "Amendments Submitted".)

Mr. HATCH. Madam President, I rise to offer another amendment to the bipartisan Equal Protection and Voting Rights Act of 2002. First let me thank my colleagues Senators DODD, MCCONNELL, BOND, SCHUMER, MCCAIN, TORRICELLI, and others for all the hard work that they have put into this bill. I also want to thank Senator LEAHY for cosponsoring this amendment, which will lay the groundwork for integrating new technology into the political process. Senator LEAHY's knowledge and support of technological issues made his input invaluable.

As Americans, we have the right to participate in the greatest democracy in the world, and most will agree that the act of voting is the bedrock of our democratic society. Americans take pride in the role they play in shaping issues and determining their leaders, and yet, we see that voter participation in recent years has decreased among people of all ages, races, and gender. I find these statistics both disappointing and tragic because, as Thomas Jefferson stated, "that government is the strongest of which every man himself feels a part."

Why is voter turnout so low? Of the 21.3 million people who registered but did not vote in the 1996 election, more than one in five reported that they did not vote because they could not take time off of work or school or because they were too busy. Can technological advances, like the Internet, increase participation in the electoral process by making voter registration easier or by simplifying the method of voting itself? As the elected representatives of the people, we should consider every option available that might help involve more of our country's citizens in America's democratic process. Federal, State, and local governments are duty bound to encourage all eligible Americans to exercise their right to vote.

In the past, attempts have been made to increase voter registration and turnout. Unfortunately, these attempts have met with limited success. The Motor Voter Act of 1993, for example, attempted to increase voter participation by permitting the registration of

voters in conjunction with the issuance of driver's licenses. According to the U.S. Census Bureau, 28 percent of the 19.5 million people who have registered to vote since 1995 have done so at their local Department of Motor Vehicles, the single highest method compared to any other form of registration. Notwithstanding this simplified voter registration procedure, voter participation continues to decline. Although registering to vote at the DMV generally is more convenient than other methods of registration, a substantial portion of registered voters nevertheless continue to fail to register to vote and fail to go to the polls on election day.

Voting via the Internet has been suggested as one possible solution to the problem. The Internet has revolutionized the way people communicate and conduct business by permitting millions of people to access the world instantaneously, at the click of a mouse. The Internet has already increased voter awareness on issues of public policy as well as on candidates and their views. In the future, the Internet may very well increase voter registration and participation, and thereby strengthen our country's electoral process.

As many of us have seen in the recent past, more and more states are looking at ways to utilize the Internet in the political process. Proposals include online voter registration, online access to voter information, and online voting. State and local officials around the country are anxious to use the Internet to foster civic action. I think that this is a positive step. Real questions remain, however, as to the feasibility of securely using the Internet for these functions. How can we be sure that the person who registers to vote online is whom he or she claims to be? How can we ensure that an Internet voting process is free from fraud? How much will this technology cost? There are also important sociological and political questions to consider. For example, will options such as online registration and voting increase political participation or could the Internet be equitably used in the political process? These and other questions deserve our attention.

The Hatch-Leahy amendment addresses these issues in two ways: No. 1, it establishes an advisory committee that will provide a necessary framework for discussing the possible uses and abuses of the Internet in the voting process;

And No. 2, it directs the Attorney General to review existing criminal statutes and penalties and to report to Congress and the advisory committee whether additional penalties for interfering with online registration and voting are needed.

No American who has exercised his or her rights to vote should ever have to wonder if their properly cast vote will be counted. We must preserve the integrity of the voting process and I commend the efforts of those who have

drafted this bill. The Hatch-Leahy amendment complements the bill and will help to ensure the legitimacy of the voting process. As we continue to address the current problems with our voting process, we can and should take this opportunity to examine the impact of new technologies on our elections.

Many States already allow for portions of the voter registration process to be completed online. The Arizona State Democratic Party allowed online voting in the 2000 presidential primary and nearly 36,000 Arizona Democrats took advantage of this opportunity. We can anticipate that this trend toward online voting will continue. To make clear our desire to hold elections free from fraud, this amendment requests the Attorney General to study whether our criminal code provides adequate penalties to punish and deter interference with online registration and voting.

The Hatch-Leahy amendment will also create the "Advisory Committee on the Internet and the Electoral Process." This committee, comprised of federal, state, and local officials, as well as representatives of the high-tech industry and academia, will investigate the practicality, feasibility, and advisability of using the Internet in the voting process. The report generated by this committee will provide a much needed framework for discussing important issues related to Internet voting. New technology has enhanced many aspects of our lives, and perhaps it can be used to enhance our civic lives as well.

Can registering and voting online really work? We must carefully evaluate the issues that will arise as the civic privilege of voting meets with technological advances. Proponents of "electronic voting"—so-called e-voting—contend that there are numerous advantages to this emerging type of "cyber" political participation, including the immediate disclosure of campaign contributions, an increase in the number of grassroots volunteers, and the creation of a more accessible forum for political advertising. Skeptics assert, to the contrary, that e-voting would only serve to decrease "real" electoral participation, place personal privacy at risk and pave the way for election fraud. The late Senator Sam Ervin opposed simplifying voter registration and voting, stating that he did not "believe [in] making it easy for apathetic, lazy people" to vote. I do not know whether online voter registration and e-voting will halt the decline in voter participation; I do not know whether online voter registration and e-voting even is wise. I firmly believe, however, that this issue deserves serious examination as we seek to ensure that our democratic republic engages as many citizens as is possible.

As we seek to ensure equal access to the voting place and the integrity of the voting process, it would be irresponsible of us to ignore the potential

effects, both good and bad, that new technology will have on the political process. The importance of the issue demands we take the opportunity to explore these possibilities. The Hatch-Leahy amendment proposes important forward-looking measures that will ensure our ability to properly integrate new technology in the political process.

Madam President, I yield the floor on this amendment. Then I will bring up one more amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, this is a study to be done on Internet voting. As my friend from Utah points out, there are jurisdictions which are examining how this would work. Obviously, there are some very serious problems one might face on privacy issues and the like with Internet voting. We have accepted a number of amendments that look at studies to be done to report back to us on this area.

Mr. HATCH. If you are willing to accept the amendment, that will be fine.

Mr. DODD. I want to make sure my colleague from Kentucky is all right on this amendment. I am fine with it.

Mr. HATCH. Shall we wait on that with the understanding you will check and see?

Mr. DODD. Why don't we wait until he comes to the Chamber—I want to give him a chance to respond to this—and temporarily lay this aside?

Mr. HATCH. That is fine.

Mr. DODD. And then come back to it.

Mr. HATCH. Madam President, I ask unanimous consent that my amendment be temporarily laid aside and I be permitted to bring up one more amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Madam President, I send another amendment to the desk.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I discussed with the distinguished manager an opportunity to speak for just a few minutes in morning business. I could not be in the Chamber before. So I ask unanimous consent to speak for up to 5 minutes.

Mr. DODD. Reserving the right to object, my colleague from Georgia has been very patient. He has an amendment to offer on the bill. Can we limit this statement? How much time does the Senator from Pennsylvania need?

Mr. SPECTER. Four minutes.

Mr. CLELAND. I yield.

Mr. DODD. The Senator from Georgia has decided the 4 minutes is an appropriate time.

Madam President, I ask unanimous consent that upon the completion of the remarks of the Senator from Pennsylvania, the Senator from Georgia be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. SPECTER are printed in today's RECORD under "Morning Business.")

Mr. SPECTER. I thank my colleagues and yield the floor.

AMENDMENT NO. 2936

Mr. HATCH. Madam President, I ask unanimous consent to use one of Senator McConnell's relevant amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2936.

The amendment is as follows:

(Purpose: To make the provisions of the Voting Rights Act of 1965 permanent)

On page 68, between lines 17 and 18, insert the following:

**SEC. \_\_\_\_ MAKING THE PROVISIONS OF THE VOTING RIGHTS ACT OF 1965 PERMANENT.**

(a) PERMANENCY OF PRECLEARANCE REQUIREMENTS.—Section 4(a)(8) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(a)(8)) is amended to read as follows:

"(8) The provisions of this section shall not expire."

(b) PERMANENCY OF BILINGUAL ELECTION REQUIREMENTS.—Section 203(b)(1) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a(b)(1)) is amended by striking "Before August 6, 2007, no covered State" and insert "No covered State".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

Mr. DODD. Just one moment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Is this the amendment on the—

Mr. HATCH. Bilingual.

Mr. DODD. Could I urge my colleague, on this one, because there is going to be objection raised by the Senator from Vermont, among others—we have the Senator from Georgia waiting to offer an amendment. This is going to take some work. So I would urge my colleague to maybe withdraw the amendment temporarily.

Mr. HATCH. Why don't I make a very short set of remarks, and then you can set it aside, and we can decide what to do later. Is that OK?

Mr. DODD. I urge the Senator to withdraw it temporarily so it is not hanging out here, so we can try to work on it.

Mr. HATCH. Let me leave it, you can set it aside, and then we will work on it.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, today I offer an amendment to a provision of the Voting Rights Act that I introduced and we adopted in 1992. That law required the States to provide for election materials in Spanish, Asian languages, as well as Native American languages.

I am proud of that law. I am well aware of the excitement that new citizens, often senior citizens, experience

on the day they first leave their home to vote as American citizens for the very first time, sometimes accompanied by their English-speaking children and grandchildren. Imagine that, Madam President.

But that excitement turns to terrible anxiety when they find that they cannot understand English language instructions that we English-speakers take for granted. Out 1992 amendment changed that for millions of our newest Americans of Hispanic and Asian descent, as well as the descendants of our first Americans.

The law has worked, and so today I offer an amendment to make permanent the requirement of these bilingual facilities, and I urge my colleagues to join me.

Similarly, my amendment also makes permanent provisions of the Voting Rights Act that have withstood the test of almost 30 years of periodic extensions. Rather than extend these civil rights protections repeatedly, I think we should make them permanent.

That is all I have to say. I would be happy to have it set aside. We can debate this issue later as necessary.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I understand this amendment is going to be set aside. I am glad to see that. This amendment is premature. It would be an extension of the Voting Rights Act absent any hearings of any sort.

We have the current difficulty, as we have seen, of an extremely activist U.S. Supreme Court which basically acts as a kind of super legislature and has been setting aside act after act of the Congress, even some that have had years of hearings. I would be concerned that when they set aside acts of Congress passed by very solid majorities, both Republicans and Democrats, following years of hearings, what they might do on something like this that has not had a hearing.

The Supreme Court's 1997 decision in *City of Boerne v. Flores* provides an instructive example. In that case, the Court distinguished between the Religious Freedom Restoration Act of 1993—which it invalidated—and the Voting Rights Act. The Court criticized the lack of evidence of religious bigotry Congress had adduced to support its passage of the RFRA. Conversely, it said, Congress had developed a record of widespread bigotry to support its passage of the Voting Rights Act. I believe the Court overstepped its bounds and thwarted Congress' will through this decision, and I fear the same could happen if we hastily make the Voting Rights Act permanent without establishing an ample record of why such a decision is necessary. There is no need for such haste—we should make the Voting Rights Act permanent, but we should do it in a way that would withstand challenge before even the most skeptical court.

Am I correct that the amendment has now been withdrawn?

The PRESIDING OFFICER. The amendment has not yet been withdrawn. The Senator from Utah stated that it would be set aside.

Mr. HATCH. Madam President, I am happy to have the amendment set aside if I could work on it with my colleagues. I am happy to ask unanimous consent that it be set aside so that we can work on it with our colleagues and resolve any difficulties. I can't imagine any difficulties, but if there are, we will try and resolve them. If not, we will vote on it later today.

The PRESIDING OFFICER. Without objection, the amendment will be set aside. The Senator from Georgia is recognized.

#### AMENDMENT NO. 2883

Mr. CLELAND. Madam President, I rise today to offer an amendment along with my colleague from Georgia, Senator MILLER, who is a cosponsor to S. 565, as amended by the Dodd substitute. I understand the amendment has been sent to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. CLELAND], for himself and Mr. MILLER, proposes an amendment numbered 2883:

Amend section 1(a) to read as follows:

(a) SHORT TITLE.—This Act may be cited as the "Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2001".

Mr. CLELAND. Madam President, as read by the clerk, this is a simple but important amendment. This amendment will change the title of the Equal Protection of Voting Rights Act of 2001 to the "Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2001." I believe that it is appropriate to name this legislation after the man who fought for equal voting rights for all Americans, Dr. Martin Luther King, Jr., a man who had a vast and distinguished record of public service to the American people.

As one of the premier champions of basic human rights, Dr. King worked tirelessly to combat segregation, discrimination, and racial injustice. In 1963, Dr. King led the march on Washington, DC, that was followed by his famous address, the "I Have a Dream" speech. Through his work and reliance on nonviolent protest, Dr. King was instrumental in the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Despite efforts to derail his mission, Dr. King acted on his dream of America and succeeded in making the United States a better place.

I believe this is an appropriate time and place to honor Dr. Martin Luther King, Jr., the foremost leader of the civil rights movement, for his contributions to this Nation in ensuring that all Americans have the right to vote. I would like to thank Senator MILLER for his support of this amendment, and I thank Senator DODD for the opportunity to speak about this matter on the floor this afternoon.

I urge my colleagues to support this amendment and attach Dr. King's name to this important bill during the month of February, a time when we recognize the achievements of African Americans in this great nation of ours.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At this time there is not a sufficient second.

Mr. DODD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCHUMER). Without objection, it is so ordered.

#### AMENDMENT NO. 2906

Mrs. CLINTON. Mr. President, I rise today in support of an amendment to the important election bill that is being considered. I note that the Presiding Officer has been deeply involved in the crafting of this legislation, along with Senator DODD, Senator MCCONNELL, and others. It does put us in a very good position to be able to tell Americans that we have heard their concerns about our electoral system and we are moving to address them.

I applaud the President for putting \$1.2 billion in his budget to be able to fund the requirements that will fall upon the States as they attempt to bring their electoral system in line with what is really required for a modern Federal election system to function.

I have introduced this amendment, referred to as the residual vote error rates amendment, a rather complicated description that I will get to in a minute, because I think it is imperative that we address what were the legitimate concerns not only in this last Presidential election, but in elections prior to it, because year after year, not just in the year 2000, ballots have not been counted because of what are referred to as "residual votes." These are overvotes and undervotes, and spoiled votes.

According to the definitive Caltech/MIT report:

Over the past four Presidential elections, the rate of residual votes was slightly over 2 percent. This means that in a typical Presidential election over 2 million voters did not have their Presidential vote recorded for their ballots.

The percentage of discarded ballots is even higher in Senate elections—approximately 5 percent.

In other words, almost 5 million votes are not recorded for other prominent statewide offices.

Now, in the vast majority of these cases, voters actually believed they were recording their votes, even though their ballots were ultimately discarded.

Because of this pattern of discarded votes, so-called residual votes, based on unintentional human error, the Ford-Carter commission, chaired by former President Gerald Ford and former President Jimmy Carter, recommended unanimously that Congress focus not just on machine errors in improving our election system but on the unintentional human errors that make up the bulk of what denies our citizens their vote from being counted. The commission, acting unanimously—Republicans, Democrats, independents, academics, people with political experience, all walks of life—made this unanimous recommendation because they concluded that only by measuring the rate of residual vote errors will we be able to assess effectively whether the voting process as a whole is giving citizens an equal opportunity to have their votes counted.

That is why I have offered this amendment, which would require the Office of Election Administration—which is called for in the underlying bill—to set a residual vote error rate standard, or benchmark. In other words, just as we are asking the Office of Election Administration to set a standard for mechanical errors—you know, you pull the lever, put the punch card in a machine, and something goes wrong, and the machine, because of mechanical error, doesn't count your vote—in the bill we are asking the Office of Election Administration to set a benchmark, so that we will make sure that mechanical errors are corrected. Well, similarly, I am asking in this amendment that we set such a standard or benchmark for the residual errors, votes that are never counted, so that we keep those votes to the barest possible minimum.

This proposed standard is 100 percent in keeping with the other voting standards in the bill, including the voting system standard that requires the Office of Election Administration to make sure that we have a system nationwide that, in Federal elections, ensures that mechanical errors for people in one State are counted in the same way as for people in another State. Similarly, these unintentional human errors should be held to the same standard.

Now, a mechanical error rate standard, I agree, will certainly be helpful in improving the election system; but, unfortunately, it does not address the most significant cause of discarded votes.

Just think back to those weeks, those torturous weeks when we had to go through the recounting of votes to try to determine what was the voter's intent. Most States have such a standard in State law, and the States use their systems to determine the outcome once a challenge is made and

then to figure out how they are going to appropriately address it by counting those votes and trying to meet the standard that the State sets.

We need a similar standard for Federal elections. This amendment will provide greater assurance that all voters in any Federal election are protected.

Some people have said in discussing this amendment with me that this may result in suits being brought against States. As I understand the bill, it gives the Attorney General the authority to bring a civil action against States that fail to comply with any standard. This amendment is no different. It does not put an additional burden on the States, nor does it put an additional burden on the Attorney General. In any event, States will have more funding and more than 7 years to comply since jurisdictions that receive grant funds to meet voting system standard requirements will be deemed in compliance until the year 2010.

We are not asking any different process than what has already been established in the bill for the mechanical error rate.

I also think it is important to recognize that this amendment does not address what happened solely in the Presidential election of 2000. In fact, on the contrary, both the Caltech-MIT report and the Ford-Carter commission have told us that we discovered a problem that has been, unfortunately, widespread throughout our country for many elections.

That is why this amendment is supported by the AARP, the League of Women Voters, the NAACP, the National Council of La Raza, the AFL-CIO, the U.S. Public Interest Research Group, the Leadership Conference on Civil Rights, and many other groups that are concerned that if we leave this particular issue unaddressed, we have not given our citizens the assurance they deserve that their votes will count.

In closing, I hope we are able to obtain the support needed for this residual vote error amendment so that we can be sure we are not only taking care of the machines that break down, but we are taking care of those unintentional errors that may cause a breakdown in the individual citizen being able to have his or her vote counted.

I hope for the sake of all Americans we will ensure that we can have the utmost faith in our election system, and I hope my colleagues will support this amendment. I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, in consultation with the two leaders and with my colleague from Kentucky, I ask unanimous consent that the Senate vote in relation to the Cleland amendment No. 2883 at 4:55 p.m., with no second-degree amendments in order prior to that vote.

As a source of information for my colleagues, there will be two votes

based on an earlier unanimous consent agreement. There will be a vote on a judicial nomination immediately following the vote on the Cleland amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I thank the Chair. I believe the hour of 4:55 p.m. has arrived.

The PRESIDING OFFICER. The Senator from Connecticut has correctly announced the time.

#### VOTE ON AMENDMENT NO. 2883

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2883. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. NICKLES. I announce that the Senator from South Carolina (Mr. THURMOND) and the Senator from Nevada (Mr. ENSIGN) are necessarily absent.

The PRESIDING OFFICER (Mrs. CLINTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

#### [Rollcall Vote No. 36 Leg.]

##### YEAS—97

Akaka	Dorgan	McCain
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Leahy	Torricelli
Daschle	Levin	Torricelli
Dayton	Lieberman	Voinovich
DeWine	Lincoln	Warner
Dodd	Lott	Wellstone
Domenici	Lugar	Wyden

##### NOT VOTING—3

Ensign	Jeffords	Thurmond
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The amendment (No. 2883) was agreed to.

#### EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the nomination of Cindy K. Jorgenson, which the clerk will report.

The legislative clerk read the nomination of Cindy K. Jorgenson, of Arizona, to be United States District Judge for the District of Arizona.

The PRESIDING OFFICER. The question is, Will the Senate advise and

consent to the nomination of Cindy K. Jorgenson, of Arizona, to be United States District Judge for the District of Arizona? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from South Carolina (Mr. THURMOND) and the Senator from Nevada (Mr. ENSIGN) are necessarily absent.

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

#### [Rollcall Vote No. 37 Ex.]

##### YEAS—98

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Miller
Bennett	Feinstein	Murkowski
Biden	Fitzgerald	Murray
Bingaman	Frist	Nelson (FL)
Bond	Graham	Nelson (NE)
Boxer	Gramm	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Byrd	Hatch	Santorum
Campbell	Helms	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Torricelli
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

##### NOT VOTING—2

Ensign	Thurmond
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The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table. The President shall be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001—Continued

Mr. DODD. Mr. President, I ask unanimous consent that Senator SCHUMER be recognized to offer the Schumer-Wyden amendment; that the amendment be debated this evening, and that